**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	
Plaintiff,	Case No. 21-CR-237-GKF
v.	
THOMAS ANTHONY PEARCE, II,	
Defendant.	

Government's Response to Defendant's Motion for Downward Variance

The Government agrees with the defendant that his "history and characteristics" are of "particular import," because it is precisely those history and characteristics—alongside the nature and circumstances of the offenses— that should compel this Court to sentence the defendant to life imprisonment.

As the Second Revised PSR notes in paragraph 38, this is the rare case in which the total offense level is off the charts, and the reasons why the Court should impose a life sentence become apparent when one examines the reasons why the defendant's total offense level is so high: 1) he struck his child victim, MV, in the face and held a knife to her throat; 2) he tried to force his hands into her pants, held her down, and forced her mouth open so he could masturbate into it; 3) he threatened to kidnap the child's siblings and sell them into sex trafficking; 4) he threatened to rape the child's mother; 5) he sadistically tied the child up so he could forcibly remove her

clothes and photograph her nude; 6) he gave the child drugs, and 7) he possessed child pornography depicting children as young as toddlers being sexually abused. The disturbing and unnerving number and severity of this case's aggravating factors have forced even the defendant to concede the irreparable nature of the harm he inflicted.

Yet, none of the above even factors in the defendant's other known victim, B.I. She was also a child when the defendant paid her for pornographic pictures, more than 6 years before the defendant committed the crimes of conviction. As with MV, the defendant found B.I. online, took advantage of her youth, sexually exploited her, used her to produce child pornography, and kept it as a trophy. Moreover, the Government's investigation revealed that near the time of his arrest, the defendant had been using the internet to communicate with numerous other children.

In sum, the defendant has a longstanding sexual interest in children, and he acts upon that sexual interest not only by downloading and keeping child pornography, but also by plying children with drugs and even threatening them with death to produce more of it. The defendant himself compares the severity of his crimes with treason and premeditated murder, and he denies even the possibility of mitigation for the harm he caused. Viewed in this light, his puzzling argument for a downward variance essentially reduces to, "I was 53 before you caught me, so I deserve maximum leniency." Nothing about the facts of this case or the defendant's

characteristics suggest any grounds for leniency of any kind. If it is true, as Pearce

alleges, for a defendant with "no criminal history" to receive a life sentence, it is also

rare for a defendant to work so hard and for so long to earn one. Sex offenders have

very high rates of recidivism, and the defendant has made it abundantly clear that he

cannot be trusted around children or society ever again.

The egregious nature of the defendant's crimes is obvious, and his choice of victims attests to his irremediable depravity. This Court has within its power the ability to prevent the defendant from creating any more victims, and accordingly, it should sentence the defendant to life imprisonment.

Respectfully submitted,

CLINTON J. JOHNSON
UNITED STATES ATTORNEY

 /s/ Victor A.S. Régal
VICTOR A.S. REGAL
NY Reg. #4845608
Assistant United States Attorney
110 West Seventh Street, Suite 300
Tulsa, Oklahoma 74119
(918) 382-2700 telephone
(918) 560-7946 fax
victor.regal@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2021 I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

F. Randolph Lynn
Attorney for Defendant

 /s/ Victor A.S. Régal
Assistant United States Attorney

4